

• • R E M A R K S / A R G U M E N T S • •

In the Examiner's Answer the Examiner has relied upon a new interpretation of "dark" in applying the prior art of record stating that:

...since dark is a relative term that can be defined as low light or no light and as not been clearly defined in applicant's specification.

This position essentially infers that applicant's recitation of "dark" in claim 1 was indefinite and therefore subject to rejection under 35 U.S.C. §112.

The present amendment has been submitted to define the term "dark place" as being sufficiently dark to prevent the plant seed from germinating.

Support for this limitation is found in the first full paragraph on page 4 of applicant's specification.

Entry of this change to claim 1 after receipt of the Examiner's Answer is believed to be appropriate due to the new position that the examiner has taken as to the indefiniteness of the term "dark place" in claim 1.

Claim 1 has further been amended herein to recite that the plant seed is left to stand in the highly watery condition for a sufficient period of time to inhibit defective germination or rosette formation of the plant seed.

Support for this limitation can be found in the third full paragraph on page 4 of applicant's specification.


The additional change to claim 1 has been made to avoid any indefiniteness in claim 1 which could be inferred from considering that preventing germination in a dark condition has to be based on some time period over which the plant seed would normally germinate. That is, this addition limitation is believed to be necessary to ensure that claim 1 fully satisfies the provisions of 35 U.S.C. § 112, when the Examiner raised the issue that "dark" was a relative term that was not clearly defined in the specification.

The addition change to claim 1 is moreover proper upon receipt of the Examiner's Answer inasmuch as for the first time in the prosecution the Examiner has stated that she is interpreting the "vat/dish" and the palletizing equipment of Badiu to constitute a dark place.

Applicant's have not had a previous opportunity to comment or respond to this interpretation of the prior art.

Accordingly, the present amendment to claim 1 is believed to be proper after receipt of the Examiner's Answer.

Respectfully submitted,


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